

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK by
ANDREW M. CUOMO, Attorney General of the State of
New York,

Plaintiff,

against,

FIRST AMERICAN CORPORATION and FIRST
AMERICAN EAPPRAISEIT,

Defendants.

ECF CASE

Civ. Action No.: 07-10397 (LTS)
(HP)

**NOTICE OF MOTION
TO DISMISS**

**ORAL ARGUMENT
REQUESTED**

PLEASE TAKE NOTICE, that upon the Declaration of Richard F. Hans dated November 26, 2007, the accompanying Memorandum of Law, and all other papers filed in this proceeding, defendants The First American Corporation and eAppraiseIT, LLC,¹ by their attorneys, Thacher Proffitt & Wood LLP, will move this Court, before the Honorable Laura Taylor Swain, United States District Court, Southern District of New York, 500 Pearl Street, New York, New York, at a time and date to be set by the Court, for an order dismissing Plaintiffs' Complaint dated November 1, 2007 against defendants The First American Corporation and eAppraiseIT, LLC pursuant to Federal Rule of Civil Procedure 12(b)(6) upon the ground that the Complaint fails to state a cause of action upon which relief can be granted.

PLEASE TAKE FURTHER NOTICE that any opposing affidavits and answering memoranda shall be served in accordance with Local Civil Rule 6.1(b).

Pursuant to Rule 2(B) of the Individual Rules of the Honorable Laura Taylor Swain, on November 20, 2007, Richard F. Hans, counsel for defendants The First American Corporation and eAppraiseIT, LLC, sent a letter to Nicole Gueron of the New York State Attorney General's

¹ The Complaint names First American Corporation and First American eAppraiseIT as defendants. The proper legal names of these entity are The First American Corporation and eAppraiseIT, LLC.

Office setting forth the legal and factual basis for this motion. The Attorney General responded by letter from Nicole Gueron dated November 26, 2007, in which the Attorney General disagreed with the basis for this motion and refused to withdraw the Complaint. In addition, Richard Hans and Nicole Gueron spoke by telephone regarding the motion on November 20 and November 26, 2007. The undersigned hereby certifies that despite these efforts, the parties were unable to resolve the subject matter of this motion.

Dated: New York, New York
November 26, 2007

THACHER PROFFITT & WOOD LLP

By: /s/ Richard F. Hans
Richard F. Hans
Patrick J. Smith
Kerry Ford Cunningham

Two World Financial Center
New York, New York 10281
Tel.: (212) 912-7400
rhans@tpw.com
psmith@tpw.com
kcunningham@tpw.com

*Attorneys for The First American
Corporation and eAppraiseIT, LLC*

TO:

Andrew M. Cuomo
Attorney General of the State of New York
120 Broadway, 25th Floor
New York, New York 10271